

**THIS DRAFT IS NOT TO BE CONSIDERED A PROPOSED RULE AND IS ONLY PROVIDED FOR DISCUSSION PURPOSES TO DETERMINE WHAT TOPICS A LATER PROPOSED RULE MIGHT ADDRESS. UNDER NO CIRCUMSTANCES IS THIS DISCUSSION DRAFT TO BE USED TO DETERMINE TAX LIABILITY AND OR EXEMPTIONS.**

AMENDATORY SECTON: (Amending order ET 83-17, filed 3/15/83, effective 3/14/83)

**WAC 458-20-141 Duplicating industry and mailing bureaus.** The phrase "duplicating industry" includes activities involving photostating, blueprinting, xeroxing, and other reproduction processes.

#### **Business and Occupation Tax**

Duplicators are taxable under the retailing classification upon the gross proceeds received from sales of photostats, blueprints, copies, etc., to consumers, whether the tangible personal property on which the work is recorded is owned by the duplicator or customer.

The wholesaling all other classification applies to sales for resale in the regular course of the purchaser's business. The duplicator must secure a resale certificate in the usual form.

Neither of these classifications is applicable, however, if the article sold is delivered to an out-of-state customer at an out-of-state point or if an article is produced for commercial or industrial use (see WAC 458-20-134.) In these cases tax is due under the manufacturing classification on the "value of products."

Mailing bureaus mail material for the publishing industry and also mail folders, bulletins, form letters, advertising publications, flyers, and similar material for other customers. As part of these services, the bureaus also label, fold, enclose and seal. All of these activities come within the definition of "sale at retail" (RCW [82.04.050](#)) as constituting "labor and services rendered in respect to . . . the . . . altering, imprinting or improving of tangible personal property of or for consumers."

The gross proceeds received by mailing bureaus from charges made to consumers, whether such charges are itemized or lump sum, are taxable under the retailing classification. The gross proceeds are taxable under the wholesaling all other classification where charges (lump sum or itemized) are for tangible personal property resold as such to the purchaser or for services rendered to tangible personal property which becomes a component of an article for resale in the regular course of the purchaser's business. In either case mailing bureaus must secure resale certificates in the usual form.

Where a mailing bureau purchases stamps, government postals or stamped envelopes for a customer and the customer is charged therefor, the amount of the postage may be deducted from the measure of the business and occupation tax.

#### **Retail Sales Tax**

Sales by duplicators and mailing bureaus of tangible personal property (for example, photostats, blueprints, copies, mailing lists, "Dick" strips, etc.) and/or services rendered to tangible personal property of or for consumers are subject to the retail sales tax. Examples of persons purchasing as "consumers" are, among others, architects, engineers, and advertising agencies.

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~~Where a mailing bureau purchases stamps, government postals or stamped envelopes for a customer and the customer is charged therefor, the amount of the postage may be deducted from the measure of the retail sales tax due.~~

~~Vendors selling tangible personal property to duplicators and mailing bureaus which will be resold, without any intervening use, are not required to collect the retail sales tax upon taking a resale certificate in the usual form.~~

~~On the other hand, vendors selling to duplicators and mailing bureaus, equipment, supplies or materials which do not become a component part of an article produced for sale, or selling items which are subjected to intervening use before resale, are making retail sales and must collect the retail sales tax.~~

**WAC 458-20-141 Duplicating industry and mailing bureaus. (1) Introduction.** This rule discusses the business and occupation (B&O) tax and retail sales and use tax reporting responsibilities of persons engaged in duplicating activities or providing mailing bureau services. Persons engaged in printing activities should refer to WAC 458-20-144 (Printing industry).

**(2) What are duplicating activities?** Duplicating is the copying of typed, written, drawn, photographed, previously duplicated, or printed materials using a photographic process such as photocopying, color copying, or blueprinting.

**(a) Application of B&O tax and sales tax to duplicating activities.** Income from the sale of photostats, photocopies, blueprint copies and other copied tangible personal property to consumers is subject to the retailing B&O tax. The measure of tax is the gross proceeds of sale. The seller is also responsible for collecting and remitting retail sales tax on the selling price when making sales to consumers, unless a specific exemption applies.

The wholesaling B&O tax applies to the gross proceeds of sale when duplicating activities are performed persons reselling the duplicated property. The seller must obtain a resale certificate from the buyer to document the wholesale nature of any sale as provided in WAC 458-20-102 (Resale certificates).

**(i) Duplicating as manufacturing activity.** A person duplicating tangible personal property for sale or commercial or industrial use (the in-house use of manufactured property or use as a consumer) is subject to the manufacturing B&O tax classification. The measure of the manufacturing B&O tax is the value of products. The sale of the duplicated property is also subject to the retailing or wholesaling B&O tax as provided above. A person who both duplicates and sells the duplicated property may claim a tax credit under the multiple activities tax credit. For further information about manufacturing activities, refer to WAC 458-20-112 (Value of products), WAC 458-20-134 (Commercial or industrial use), WAC 458-20-136 (Manufacturing, processing for hire, fabricating), and WAC 458-20-19301 (Multiple activities tax credit).

**(ii) Self-service copying.** Some persons provide consumers with access to duplicating equipment to make their own copies (frequently referred to "self-service copying"). These

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customers are generally charged on a per page basis. The gross proceeds of sales made to consumers for self-service copying is subject to the retailing B&O tax. The seller is also responsible for collecting retail sales tax, unless a specific exemption applies. Charges for self-service copying are not subject to the manufacturing B&O tax.

**(b) Litter tax.** Chapter 82.19 RCW imposes a litter tax on manufacturers (including duplicators), wholesalers, and retailers of certain products. These products include, but are not limited to, newspapers, magazines, and household paper and products. Thus, persons who duplicate tangible personal property for sale or who provide facilities for self-service copying may incur a litter tax liability. The measure of the litter tax is the gross proceeds of sale. For further information about the litter tax, refer to chapter 82-19 RCW and WAC 458-20-243 (Litter tax).

**(c) Purchases for resale.** The purchase of tangible personal property for resale as tangible personal property or as a component or ingredient of duplicated property is a purchase at wholesale. Examples of items that may be purchased at wholesale include paper, ink, toner, and staples. Refer to WAC 458-20-113 (Ingredients or components, chemicals used in processing new articles for sale). Wholesale purchases are not subject to retail sales tax when the buyer provides a resale certificate to the seller as provided by WAC 458-20-102 (Resale certificates).

**(d) Purchases subject to retail sales or use tax.** A person who engages in duplicating activities and acquires tangible personal property for use as a consumer must pay retail sale tax (commonly referred to as “deferred sales tax”) or use tax directly to the department when the seller fails to collect the appropriate retail sales tax. Examples of purchases by a person engaged in duplicating activities that are subject to retail sales tax or use tax include photocopiers, cutting boards, computers, cash registers, and office furniture. For further information about the use tax, refer to WAC 458-20-178 (Use tax).

Persons who engage in duplicating activities and who sell the duplicated property should refer to WAC 458-20-13601 (Manufacturers and processors for hire Sales and use tax exemption for machinery and equipment) for information about the sales and use tax exemptions for certain machinery and equipment used directly in a manufacturing operation.

**(e) Example.** Copy Company provides a public area with photocopying equipment and materials (paper, toner, and staples) to allow customers to make their own copies. Copy Company has a separate area in which Copy Company employees make copies for customers. The income attributable to copies made both by the customers and by Copy Company employees is subject to the retailing B&O and retail sales taxes. The value of the copies made by Copy Company employees is also subject to the manufacturing B&O tax, and Copy Company may claim a multiple activities tax credit as described in subsection (2)(a)(i). Litter tax may be due as explained in subsection (2)(b).

Copy Company may purchase the paper, toner, and staples that are used or provided in both areas at wholesale, provided a resale certificate is provided to the seller. Retail sales or use tax applies to the purchase of photocopying equipment in both areas, though the purchase and/or

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use of the equipment in the area in which Copy Company employees make copies may qualify for the machinery and equipment exemption described in WAC 458-20-13601.

(3) **What are mailing bureau services?** Mailing bureaus mail materials such as folders, bulletins, form letters, advertising publications, and flyers for the publishing and direct mail industries, and other customers. Mailing bureau services include such activities as addressing, labeling, binding, folding, enclosing, sealing, and tabbing.

(a) **Application of B&O, retail sales, and use taxes to charges for mailing bureau services.** Mailing bureau services are included within the definition of a retail sale as they are labor and services rendered in respect to altering, imprinting, or improving tangible personal property of or for consumers. RCW 82.04.050(2)(a). Thus, income from mailing bureau services provided to consumers is subject to the retailing B&O tax. Mailing bureau businesses are also responsible for collecting and remitting retail sales tax when making sales to consumers, unless a specific exemption applies. (See also subsection (3)(b) regarding potential use tax collection responsibilities.)

(i) **Measure of tax.** The measure of the B&O and retail sales taxes is the gross proceeds of sale and selling price, respectively. These terms include all consideration paid, however identified, without any deduction for costs of doing business. RCW 82.04.070 and 82.08.010.

Amounts attributed to postage are included in the measure of tax for both B&O tax and retail sales tax if included in the consideration paid by the customer. It is immaterial if the postage charges are stated or shown separately on invoices. Postage is not included in the measure of tax only if it is not included in the consideration paid by the customer.

(A) **Example.** A Yakima mailing bureau contracts to prepare and mail 10,000 flyers for a new restaurant. The mailing bureau business purchases the postage and itemizes the actual amount paid for the postage on its sales invoice to the restaurant. Postage is part of the total consideration paid by the restaurant and is included in the measure of tax.

(B) **Example.** A Seattle mailing bureau contracts to prepare and mail 100,000 catalogs for a department store. The department store provides the printer with its U.S. Postal Service bulk mail permit imprint to be printed on the flyer. While payment to the U.S. Postal Service for use of the bulk mail permit is the exclusive responsibility of the retailer, the printer advances payment to the U.S. Postal Service to ensure the mailing of the flyers. The printer itemizes the cost of the postage the printer paid to the U.S. Postal Service on behalf of retailer on the sales invoice to retailer. The itemized charge for the postage is not included in the measure of tax.

(ii) **Exemption.** RCW 82.08.0265 provides a sales tax exemption for sales of or charges made for labor and services rendered in respect to any installing, repairing, cleaning, altering, or improving tangible personal property of or for a nonresident when the seller agrees to and does deliver the property to the purchaser at a point outside this state or delivers the property to a common or bona fide private carrier consigned to the purchaser at a point outside this state.



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**(b) Application of use tax to charges for mailing bureau services performed outside Washington.** Persons performing mailing bureau activities outside the state who have established nexus in this state may have a responsibility to collect use tax from persons who distribute or cause to be distributed any article of tangible personal property, except newspapers, the primary purpose of which is to promote the sale of products or services within Washington. RCW 82.12.040. The measure of tax is the value of the service used. RCW 82.12.010 and chapter 367, Laws of 2002. If the mailing bureau fails to collect the use tax, the buyer is responsible for reporting and remitting the tax directly to the department. For further information about promotional materials, refer to WAC 458-20-17803 (Use tax on promotional materials).

**(c) Purchases for resale.** The purchase of tangible personal property for resale as tangible personal property or to become a component or ingredient of property upon which mailing bureau services will be performed is a purchase at wholesale. Examples of items that may be purchased at wholesale include paper, ink, envelopes, and staples. Wholesale purchases are not subject to retail sales tax when the buyer provides a resale certificate to the seller as provided by WAC 458-20-102 (Resale certificates). Refer to WAC 458-20-113 (Ingredients or components, chemicals used in processing new articles for sale) for further information regarding ingredients and components.

**(d) Purchases subject to retail sales or use tax.** A mailing bureau business that acquires tangible personal property for use as a consumer must pay retail sale tax (commonly referred to as “deferred sales tax) or use tax directly to the department when the seller fails to collect the appropriate retail sales tax. Examples of such property include photocopiers, cutting boards, computers, office furniture, and equipment to address, label, fold, seal, insert, meter, stamp, or sort. For further information about the use tax, refer to WAC 458-20-178 (Use tax).

**(e) Purchases of mailing lists.** Persons acquiring mailing lists are purchasing an information service regardless of the medium used to provide or transfer the information. Thus, the purchase of a mailing lists by a mailing bureau business is not subject to either retail sales or use tax.